

**31.205-48**

dual sourcing, coproduction, or similar programs, are unallowable, except when (A) incurred as a result of compliance with specific terms and conditions of the contract or written instructions from the contracting officer, or (B) when agreed to in writing by the contracting officer.

(6) Patent infringement litigation, unless otherwise provided for in the contract.

(7) Representation of, or assistance to, individuals, groups, or legal entities which the contractor is not legally bound to provide, arising from an action where the participant was convicted of violation of a law or regulation or was found liable in a civil or administrative proceeding.

(8) Protests of Federal Government solicitations or contract awards, or the defense against protests of such solicitations or contract awards, unless the costs of defending against a protest are incurred pursuant to a written request from the cognizant contracting officer.

(g) Costs which may be unallowable under 31.205-47, including directly associated costs, shall be segregated and accounted for by the contractor separately. During the pendency of any proceeding covered by paragraph (b) and subparagraphs (f)(4) and (f)(7) of this subsection, the contracting officer shall generally withhold payment of such costs. However, if in the best interests of the Government, the contracting officer may provide for conditional payment upon provision of adequate security, or other adequate assurance, and agreement by the contractor to repay all unallowable costs, plus interest, if the costs are subsequently determined to be unallowable.

[48 FR 42301, Sept. 19, 1983, as amended at 51 FR 12302, Apr. 9, 1986; 54 FR 13024, Mar. 29, 1989; 55 FR 52794, Dec. 21, 1990; 61 FR 41477, Aug. 8, 1996; 63 FR 58600, Oct. 30, 1998; 65 FR 80265, Dec. 20, 2000; 66 FR 17754, 17756, Apr. 3, 2001; at 66 FR 2131, Jan. 10, 2001; 66 FR 17756, Apr. 3, 2001; 66 FR 66986, 66990, Dec. 27, 2001; 67 FR 43514, June 27, 2002]

**31.205-48 Research and development costs.**

*Research and development*, as used in this subsection, means the type of technical effort described in 31.205-18 but sponsored by a grant or required in the performance of a contract. When

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costs are incurred in excess of either the price of a contract or amount of a grant for research and development effort, the excess is unallowable under any other Government contract.

[65 FR 46072, July 26, 2000, as amended at 68 FR 28092, May 22, 2003]

**31.205-49 Goodwill.**

Goodwill, an unidentifiable intangible asset, originates under the purchase method of accounting for a business combination when the price paid by the acquiring company exceeds the sum of the identifiable individual assets acquired less liabilities assumed, based upon their fair values. The excess is commonly referred to as goodwill. Goodwill may arise from the acquisition of a company as a whole or a portion thereof. Any costs for amortization, expensing, write-off, or write-down of goodwill (however represented) are unallowable.

[49 FR 26743, June 29, 1984]

**31.205-50 [Reserved]****31.205-51 Costs of alcoholic beverages.**

Costs of alcoholic beverages are unallowable.

[51 FR 12302, Apr. 9, 1986]

**31.205-52 Asset valuations resulting from business combinations.**

(a) For tangible capital assets, when the purchase method of accounting for a business combination is used, whether or not the contract or subcontract is subject to CAS, the allowable depreciation and cost of money shall be based on the capitalized asset values measured and assigned in accordance with 48 CFR 9904.404-50(d), if allocable, reasonable, and not otherwise unallowable.

(b) For intangible capital assets, when the purchase method of accounting for a business combination is used, allowable amortization and cost of money shall be limited to the total of the amounts that would have been allowed had the combination not taken place.

[63 FR 9068, Feb. 23, 1998]